

ATTACHMENT 1

January 7, 2002

BY ELECTRONIC MAIL & HAND DELIVERY

Henry M. Ogden, Acting Secretary
Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

**Re: In the Matter of the Petition of CABLEVISION LIGHTPATH – NJ, INC. Petition for Arbitration Pursuant to Section 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with VERIZON NEW JERSEY, INC.
Docket No. TO01080498**

Dear Acting Secretary Ogden:

The Arbitrator's Decision Concerning Language To Implement His Recommended Decision of December 12, 2001, Verizon New Jersey Inc. ("Verizon NJ") "direct[ed]" Cablevision LightPath NJ, Inc. ("Cablevision") to prepare, and Verizon NJ to sign and deliver an Interconnection Agreement between Verizon NJ and Cablevision (the "Agreement") today. Verizon NJ objects to the Agreement because, *inter alia*, it contains terms which,

- (i) have no basis in the Arbitrator's Recommended Decision of December 12 (e.g., §11's inclusion of UNE terms and conditions although the Arbitrator's Recommended Decision only concerned the pricing of UNEs),
- (ii) are contrary to the public interest (e.g., redefining the access charge compensation structure established by the Board);
- (iii) are improper (e.g., page 1, paragraph 1's Effective Date preempts any review of the Arbitrator's decision; §11's suggestion that New York and/or Connecticut tariffs apply in New Jersey); and
- (iv) are premature (e.g., the Agreement is being executed prior to the Board's acceptance of the Arbitrator's Recommended Decision, the receipt of exceptions or motions to modify the Arbitrator's decision).

As required by the arbitrator's decision, however, Verizon NJ has submitted the executed Agreement to Cablevision. A hard copy of the Agreement along with the executed signature pages will be forwarded separately by Cablevision.

By our countersignature on the Agreement, Verizon NJ does not agree to the Agreement as either a voluntary or negotiated agreement. The filing and performance by Verizon NJ of the Agreement does not in any way constitute a waiver by Verizon NJ of its position as to the illegality or unreasonableness of the Agreement or a portion thereof, nor does it constitute a waiver by Verizon NJ of all rights and remedies it may have to seek review of the Agreement, or to petition the Board, other administrative body, or court for reconsideration or reversal of any determination made by the Board pursuant to the above referenced arbitration, or to seek review in any way of any provisions included in this Agreement.

Verizon NJ, for the reasons stated above, therefore requests that the Board not approve the agreement in its present form unless and until it has remedied the legal infirmities identified above.

Respectfully submitted,

Bruce D. Cohen

BDC:dmp

Attachment

cc: Service List

ATTACHMENT 2

VZ Response to CLI's Proposed Language for Issues Assigned to CLI by Arbitration Award

1.0 Definitions

1.32 "Information Services Traffic" means Local Traffic, or IntraLATA Toll Traffic ~~or other traffic subject to Reciprocal Compensation that~~ originates on a Telephone Exchange Service line and which is addressed to an information service provided over a Party's information services platform (e.g., 976).

1.41 "ISP Intercarrier Compensation Order" means the FCC's Order on Remand and Report and Order, *In the Matter of Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, Inter-carrier Compensation for ISP Bound Traffic*, FCC 01-131, CC Docket Nos. 96-98 and 99-68 (April 27, 2001).

1.47 "Local Traffic," means traffic that is originated by a Customer of one Party on that Party's network and terminates to a Customer of the other Party on that other Party's network, within a given local calling area, ~~the boundaries of which shall not exceed a LATA, or expanded area service ("EAS") area, as defined established by the originating or terminating Party and approved by the Board (whichever is larger), or, if the Board has defined local calling areas applicable to all LECs, then as so defined by the Board. In no event shall CLI's local calling areas extend beyond the confines of the 224 LATA.~~ Local Traffic does not include any Internet Traffic.

1.59 "Percent Interstate Usage" or "PIU" is a factor that is used to determine the apparent interstate portion of minutes of traffic exchanged via Traffic Exchange Trunks. PIU is developed from the measurement of calls in which the calling and called parties are not located within the same state unless a call is otherwise a Local Traffic call. PIU is the first such factor applied to traffic exchanged via Traffic Exchange Trunks for jurisdictional separation of traffic.

1.60 "Percent Local Usage" or "PLU" is a factor that is used to determine the apparent portion of Local Traffic minutes exchanged via Traffic Exchange Trunks. PLU is developed from the measurement of calls which are appear to be Local Traffic. The PLU factor is applied to traffic only after the PIU factor has been applied for jurisdictional separation of traffic. The use of PLU does not determine if traffic exchanged via Traffic Exchange Trunks is Local Traffic.

1.65 "Reciprocal Compensation" is As Described in the Act, and refers to the payment arrangement as set forth in subsection 5.7 below that is designed to recover costs incurred for the transport and termination of all telecommunications traffic, excluding exchange access, information access, and exchange services for such access, as described in the Act, and as may be modified by any FCC Order (including the FCC's ISP Inter-carrier Compensation Order), decision by a court of competent jurisdiction, or federal legislative authority.

tone, crosswire its dial tone to the Sub-Loop and submit CLI's long-term number portability request.

11.2.2.9 Verizon will not provide access to a Sub-Loop if Verizon is using the loop of which the Sub-Loop is a part to provide line sharing service to another CLEC or a service that uses derived channel technology to a Customer unless such other CLEC first terminates the Verizon-provided line sharing or such Customer first disconnects the service that utilizes derived channel technology.

11.2.2.10 Verizon shall provide CLI with access to a Sub-Loop in accordance with negotiated intervals.

11.2.2.11 Verizon shall repair and maintain a Sub-Loop at the request of CLI and subject to the time and material rates set forth in Exhibit A and the rates, terms and conditions of Verizon's applicable Tariffs. CLI accepts responsibility for initial trouble isolation for Sub-Loops and providing Verizon with appropriate dispatch information based on its test results. If (a) CLI reports to Verizon a Customer trouble, (b) CLI requests a dispatch, (c) Verizon dispatches a technician, and (d) such trouble was not caused by Verizon Sub-Loop facilities or equipment in whole or in part, CLI shall pay Verizon the charges set forth in Exhibit A and Verizon's applicable Tariffs for time associated with said dispatch. In addition, these charges also apply when the Customer contact as designated by CLI is not available at the appointed time. If as the result of CLI instructions, Verizon is erroneously requested to dispatch to a site on Verizon company premises ("dispatch in"), the charges set forth in Exhibit A and Verizon's applicable Tariffs will be assessed per occurrence to CLI by Verizon. If as the result of CLI instructions, Verizon is erroneously requested to dispatch to a site outside of Verizon company premises ("dispatch out"), the charges set forth in Exhibit A and Verizon's applicable Tariffs will be assessed per occurrence to CLI by Verizon.

11.2.23 Dark Fiber.

Subject to the conditions set forth in Section 11.7 of this Agreement, Verizon shall provide CLI with access to a Dark Fiber Loop (as such term is hereinafter defined) and to a Dark Fiber IOF (as such term is hereinafter defined) in accordance with, and subject to, the terms and conditions set forth in this Agreement (including, but not limited to Verizon's New York applicable Tariffs No. 10, as amended from time to time), and at the rates set forth in Exhibit A that relate to or concern Dark Fiber Loops or Dark Fiber IOF, as the case may be, and Verizon shall do so regardless of whether or not such rates, terms and conditions are effective. Access to unbundled Dark Fiber Loops and Dark Fiber IOF will be provided by Verizon only where existing facilities are available at the requested availability date. A "Dark Fiber Loop" means two continuous fiber optic strands (a pair) located within a Verizon fiber optic cable sheath between a Verizon's Accessible Terminal, such as the fiber distribution frame, or its functional equivalent, located within Verizon end office and Verizon's main termination point at the premises of a Customer premises and that has not been activated through connection to

electronics that "light" it and render it capable of carrying Telecommunications Services (as such term is hereinafter defined) but that are not connected to any equipment used or that can be used to transmit and receive telecommunications traffic. A "Dark Fiber IOF" means two continuous fiber optic strands (a pair) that are located within a fiber optic cable sheath between either (a) Accessible Terminals in two Verizon central offices or (b) an Accessible Terminal in a Verizon central office and a CLI central office, but, in either case, that has not been activated through connection to electronics that "light" it and render it capable of carrying Telecommunications Services not connected to any equipment used or that can be used to transmit and receive telecommunications traffic. Notwithstanding anything else set forth in this Agreement, Verizon shall provide CLI with access to Dark Fiber Loops and Dark Fiber IOF in accordance with, but only to the extent required by, Applicable Law. Except as otherwise required by Applicable Law, the following terms and conditions apply to Verizon's Dark Fiber offerings.

11.2.3.1 In addition to the other terms and conditions of this Agreement, the following terms and conditions shall apply to Dark Fiber Loops and Dark Fiber IOF:

11.2.3.1.1 Verizon shall be required to provide a Dark Fiber Loop only where one end of the Dark Fiber Loop terminates at a Verizon Accessible Terminal in Verizon's Central Office that can be cross-connected to CLI's collocation arrangement located in that same Verizon Central Office and the other end terminates at the Customer premise. A CLI demarcation point at a Customer premise shall be established in the main telco room of the Customer premise if Verizon is located in that room or, if the building does not have a main telco room or if Verizon is not located in that room, then at a location to be determined by Verizon. A CLI demarcation point at a Customer premise shall be established at a location that is no more than 30 feet from Verizon's Accessible Terminal on which the Dark Fiber Loop terminates. Verizon shall connect a Dark Fiber Loop to the CLI demarcation point by installing a fiber jumper no greater than 30 feet in length.

11.2.3.1.2 CLI may access a Dark Fiber Loop or Dark Fiber IOF only at a pre-existing Verizon Accessible Terminal of such Dark Fiber Loop or Dark Fiber IOF, and CLI may not access a Dark Fiber Loop or Dark Fiber IOF at any other point, including, but not limited to, a splice point or case. Dark Fiber Loops and Dark Fiber IOF are not available CLI unless such Dark Fiber Loops or Dark Fiber IOF already are terminated on a Verizon Accessible Terminal. Except where required by Applicable Law, Verizon will not introduce additional splice points or open existing splice points or cases to accommodate CLI's request. Unused fibers located in a cable vault or a controlled environment vault, manhole or other location outside the Verizon Wire Center, and not terminated to a fiber patch panel, are not available to CLI.

11.2.3.1.3 A strand shall not be deemed to be continuous if splicing is required to provide fiber continuity between two locations. Dark Fiber Loops and Dark Fiber IOF will only be offered on a route-direct basis where facilities exist (i.e., no intermediate offices).

11.2.3.1.4 Verizon shall perform all work necessary to install (1) a cross connect or a fiber jumper from a Verizon Accessible Terminal to a CLI collocation arrangement or (2) from a Verizon Accessible Terminal to CLI's demarcation point at a Customer premise or CLI Central

Office.

11.2.3.1.5 A Dark Fiber Inquiry must be submitted prior to submitting an ASR. Upon receipt of the completed Dark Fiber Inquiry, Verizon will initiate a review of its cable records to determine whether Dark Fiber Loop or Dark Fiber IOF may be available between the locations and in the quantities specified. Verizon will respond within fifteen (15) Business Days from receipt of CLI's request, indicating whether Dark Fiber Loop or Dark Fiber IOF may be available based on the records search except that for voluminous requests or large, complex projects, Verizon reserves the right to negotiate a different interval. The Dark Fiber Inquiry is a record search and does not guarantee the availability of Dark Fiber Loops or Dark Fiber IOF.

11.2.3.1.6 CLI shall order Dark Fiber Loops or Dark Fiber IOF by sending to Verizon a separate ASR for each A to Z route.

11.2.3.1.7 Access to Dark Fiber Loops and Dark Fiber IOF that terminate in a Verizon premise must be accomplished via a collocation arrangement in that premise. In circumstances where collocation cannot be accomplished in the premises, the Parties agree to negotiate for possible alternative arrangements.

11.2.3.1.8 A Dark Fiber Loop or Dark Fiber IOF will be offered to CLI in the condition that it is available in Verizon's network at the time that CLI submits its request (i.e., "as is"). In addition, Verizon shall not be required to convert lit fiber to a Dark Fiber Loop or Dark Fiber IOF for CLI's use.

11.2.3.1.9 Spare wavelengths on fiber strands, where Wave Division Multiplexing (WDM) or Dense Wave Division Multiplexing (DWDM) equipment is deployed, are not considered to be Dark Fiber Loops or Dark Fiber IOF, and, therefore, will not be offered to CLI as Dark Fiber Loops or Dark Fiber IOF.

11.2.3.1.10 Fiber that has been assigned to fulfill a Customer order or for maintenance purposes will not be offered to CLI as Dark Fiber Loops or Dark Fiber IOF.

11.2.3.1.11 CLI shall be responsible for providing all transmission, terminating and regeneration equipment necessary to light and use Dark Fiber Loops or Dark Fiber IOF.

11.2.3.1.12 CLI may not resell Dark Fiber Loops or Dark Fiber IOF, purchased pursuant to this Agreement to third parties.

11.2.3.1.13 Except to the extent that Verizon is required by Applicable Law to provide Dark Fiber Loops or Dark Fiber IOF to CLI for use for Special or Switched Exchange Access Services, CLI shall not use Dark Fiber Loops or Dark Fiber IOF, for Special or Switched Exchange Access Services.

11.2.3.1.14 In order to preserve the efficiency of its network, Verizon will limit CLI to leasing up to a maximum of twenty-five percent (25%) of the Dark Fiber Loops or Dark Fiber

IOF in any given segment of Verizon's network. In addition, except as otherwise required by Applicable Law, Verizon may take any of the following actions, notwithstanding anything to the contrary in this Agreement:

11.2.3.1.14.1 Revoke Dark Fiber Loops or Dark Fiber IOF leased to CLI upon a showing of need to the Commission and twelve (12) months' advance written notice to CLI; and

11.2.3.1.14.2 Revoke Dark Fiber Loops or Dark Fiber IOF leased to CLI upon a showing to the Commission that CLI underutilized fiber within any twelve (12) month period;

11.2.3.1.14.3 Verizon reserves and shall not waive, Verizon's right to claim before the Commission that Verizon should not have to fulfill a CLI order for Dark Fiber Loops or Dark Fiber IOF because that request would strand an unreasonable amount of fiber capacity, disrupt or degrade service to Customers or carriers other than CLI, or impair Verizon's ability to meet a legal obligation.

11.2.3.1.15 CLI may not reserve Dark Fiber Loops or Dark Fiber IOF.

11.2.3.1.16 CLI shall be solely responsible for: (a) determining whether or not the transmission characteristics of the Dark Fiber Loop or Dark Fiber IOF accommodate the requirements of CLI; (b) obtaining any Rights of Way, governmental or private property permit, easement or other authorization or approval required for access to the Dark Fiber Loop or Dark Fiber IOF; (c) installation of fiber optic transmission equipment needed to power the Dark Fiber Loop or Dark Fiber IOF to transmit Telecommunications Services traffic; (d) installation of a demarcation point in a building where a Customer is located; and (e) CLI's collocation arrangements with any proper optical cross connects or other equipment that CLI needs to access Dark Fiber Loop or Dark Fiber IOF before it submits an order for such access. CLI hereby represents and warrants that it shall have all such rights of way, authorizations and the like, applicable to the geographic location at which it wishes to establish a demarcation point for dark fiber, on or before the date that CLI places an order for the applicable dark fiber, and that it shall maintain the same going forward.

11.2.3.1.17 CLI is responsible for trouble isolation before reporting trouble to Verizon. Verizon will restore continuity to Dark Fiber Loops and Dark Fiber IOF that have been broken. Verizon will not repair a Dark Fiber Loop or Dark Fiber IOF that is capable of transmitting light, even if the transmission characteristics of the Dark Fiber Loop or Dark Fiber IOF have changed.

11.2.3.1.18 CLI is responsible for all work activities at the Customer premises. Except as otherwise required by Applicable Law, all negotiations with the premises owner are solely the responsibility of CLI.

11.2.34 House and Riser.

Subject to the conditions set forth in Section 11.7 of this Agreement, Verizon shall provide CLI with access to a House and Riser Cable (as such term is hereinafter defined) in